

Utah Foster Care Citizen Review Board Policy

Effective Date: 8 January 1999

Confidentiality Policy

1. Purpose

To establish staff and volunteer responsibilities in protecting the privacy of records and information concerning clients; to establish conditions under which information obtained during reviews may be shared.

2. Definitions

1. Confidentiality - Protecting the privacy of records and information regarding clients and only sharing information as outlined in this policy.
- B. Identifying Client Information - Any information that would allow the identification of that individual, such as name, address, birth date or any other information which by itself or in reasonable conjunction with other information may be used to identify an individual.
3. GRAMA - Government Records Access and Management Act - This refers to the state statutes governing the privacy of records and conditions under which they can be released. The GRAMA classification of records is as follows:
 1. Public: Records which are open for public review. Unless exempt, certain records must be public as explained in UCA 63-2-301. These records include laws, information about public employees, final opinions made by a governmental entity, final interpretations of statutes or rules, minutes from an open meeting, judicial records, title and tax information about real property, and records that evidence incorporations and mergers.

The following records are usually public but may be restricted under GRAMA: policy and procedure manuals, contracts, accounts and vouchers which document funds received or expended, business relocation incentive records, chronological logs, initial contact reports, correspondence, empirical data, arrest and search warrants, records regarding mineral production, final audit reports, occupational licenses, business licenses and notices of violation.
 2. Private: Records open only to the individual to whom the record pertains and other authorized persons or agencies. The information classified as private is identified in UCA 63-2-302. This includes records about unemployment or welfare benefits to an individual, medical history and diagnosis, library records, and certain information about public employees (such as home address).

3. Controlled: Records open to authorized persons or agencies, but not open to the individual to whom the record pertains. The information classified as controlled is identified in UCA 63-2-303. This includes records containing medical, psychiatric or psychological data about an individual and the government entity reasonably believes that: a) releasing the information would be detrimental to the subject's mental health or to the safety of an individual; or b) releasing the information would constitute a violation of normal professional practice and medical ethics; and 3) the governmental entity has properly classified the record.
4. Protected: Records (usually with non-personal data) that are open only to the person who submitted the information and other authorized persons or agencies. These records may be classified protected if they contain trade secrets, commercial information, non-individual financial information, test questions and answers, contract proposals, property appraisal information records created for civil or criminal enforcement, audit procedures, licensing and certification information, investigation records, incarceration records, anticipated litigation records, attorney's work product, minutes of a closed meeting, names of anonymous donors, education records such as lecture notes or unpublished research, or other information identified in UCA 63-2-304.
5. Exempt: Records where disclosure is limited expressly by statute. Access to some records is restricted by the specific laws that authorize or require the keeping of the record. If an applicable statute, federal regulation or court rule exists, GRAMA only applies to the extent that it does not conflict with that statute, regulation or rule.

D. Employee Code of Ethics (Appendix A) - Managing Client Records and Information - This refers to the Section of the Code of Conduct (Appendix B) signed by every FCCRB employee and volunteer in which they commit to:

1. Understand the difference between confidential, private, protected and public information as defined by State and/or Federal laws and regulations that apply to the employee's work.
2. Respect and protect the appropriate privacy of records and information concerning clients and will not disclose such information to unauthorized personnel or use it for personal purposes without the client's written consent unless there are appropriate authorization and compelling legal or professional reasons.
3. When appropriate, obtain informed consent of clients before taping or recording client activities, and, except for inadvertent observation due to crowded offices, will not permit Third Party observation of activities without client consent.
4. Unless restricted by law, administrative policy or professional practice will allow clients reasonable access to official records concerning them.
5. Follow Agency, and other Department regulations when exchanging client information with related Agencies. (DHS Employee Code of Ethics-Managing Client Records and Information)

E. Record -

1. "Record" means all books, letters, documents, papers, maps, plans, photographs, films, cards, tapes, recordings, electronic data, or other documentary materials regardless of physical form or characteristics:
 - a. Which are prepared, owned, received or retained by a governmental entity or political subdivision.
 - b. Where all of the information in the original is reproducible by photocopy or other mechanical or electronic means.
2. "Record" does not mean:
 - a. Temporary drafts or similar materials prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom he is working.
 - b. Materials that are legally owned by an individual in his private capacity.
 - c. Proprietary software.
 - d. Junk mail or commercial publications received by a governmental entity or an official or employee of a governmental entity.
 - e. Books and other materials that are cataloged, indexed, or inventoried and contained in the collections of libraries open to the public, regardless of physical form or characteristics of the material.
 - f. Daily calendars and other personal notes prepared by the originator for the originator's personal use or for the personal use of an individual for whom he is working.

3. Releasing Information in Case Records

1. Under GRAMA, the primary classification of all child welfare records is "private." Secondary classifications are "controlled" and "protected."
 1. Controlled information refers to psychological evaluations, psychiatric evaluations and medical information. Controlled records ordinarily may be released only to a physician, psychologist or social worker with a signed release from the subject, and that person may not disclose the information to the subject.
 2. Protected information most often refers to reference letters, investigation records, etc.
 3. Information regarding referents on Child Protection referrals is "exempt" and can only be released as specified in UCA 62A-4a-412.
 4. The remainder of the information in DCFS records is classified as "private." Private records are ordinarily available only to the subject of the record or to persons with written permission from the subject. [DCFS 311-4.a.(2)]
- B. FCCRB staff shall follow GRAMA policy when responding to requests for information contained in the DCFS records received pursuant to a review.
- C. Clients, or if a minor, their parent or legal guardian, or person with power of attorney, wishing to see their own records shall present proof of identity, and shall sign a request to see the record.

The signed request shall be kept in the case record. Third party documents such as psychological evaluations, medical exams, reports from other agencies, letters of reference and other "controlled" or "protected" materials shall not be released to clients. Clients shall be referred to the provider that generated the report if requesting "protected" information.

- D. When FCCRB staff receive a subpoena signed by a judge requesting a case record, they shall immediately contact the Director, FCCRB for further instruction.
- 5. No information shall be released over the telephone or verbally to anyone requesting information from the data system, written files or any other information the agency has on clients.
- F. No other record, or part of a record, except statistical data which does not identify the consumer, may be released to another agency without a signed release from the client.
- G. Any request for information shall be in writing. The FCCRB office shall respond within five working days after receiving the request but no later than ten business days after receiving the request.
- H. If the agency denies access to the record, a Notice of Denial of Request for Records shall be completed and sent to the person requesting the record along with the Notice of Appeal Form and a procedure on how they may appeal the decision if they choose, including the information that the appeal must be filed within 30 days and the name and address of the regional administrative officer to whom the appeal must be sent.
 - 1. An individual wishing to appeal a decision of denial shall do so within 30 days of receipt of the denial to the regional chief administrative officer in charge of handling appeals.
- 10. The GRAMA Act does not apply to reports and information received during a review if the reviewers have reason to believe that a child has been subjected to physical, emotional or sexual abuse as outlined in UCA 62A-4a-402, 403.
- 11. All information regarding a child/youth's communicable disease status is "controlled" and shall be omitted from the Dispositional Report.
- 12. When a record is to be shared, the staff member sharing the information shall assure that all names of references, complainants or other "controlled" information is blocked out.
- M. All client records shall be kept in a central file in locked cases. Workers' personal notes regarding a case may be kept separate from the official record.

14. Records are to remain in the office except when subpoenaed by a court of a competent jurisdiction, or during the preparations for and conducting of a review.
- O. Records being transferred from one office to another shall be sent registered in a sealed envelope and appropriate measures taken to ensure security of the record.

4. FCCRB Staff Responsibilities to Maintain Confidentiality

1. FCCRB staff shall comply with all confidentiality requirements contained in State statutes, the DHS Code of Ethics and specific FCCRB and DCFS program policies. Failure to do so may result in corrective action or disciplinary action, including possible termination of employment.
- B. Child Abuse Reporting:
 1. Reports made pursuant to UCA 62a-4a-412, as well as any other information in the possession of the FCCRB, obtained during a review as the result of a report or statement is confidential and may only be made available to:
 1. A police or law enforcement agency investigating a report of known or suspected child abuse or neglect.
 2. A physician who reasonably believes that a child may be the subject of abuse or neglect.
 - c. An agency that has responsibility or authority to care for, treat or supervise a child who is the subject of a report.
 4. Any subject of the report, or the guardian or guardian ad litem of the subject, if the subject of the report is a minor or otherwise legally incompetent.
 - e. A court, upon a finding that access to the records may be necessary for the determination of an issue before it.
 6. An office of the public prosecutor or its deputies.
 - g. A person engaged in bona fide research, when approved by the director of the division, if the information does not include names and addresses.
3. Case Staffing and Reviews:
 1. When sharing client information in case staffings and reviews, such as team meetings, twenty- four hour meetings and other case staffings, pertinent client identifying information shall only be shared with allied agencies or individuals that have a mutual responsibility for the care and treatment of the client. Protected information that should only be shared with limited individuals in the group shall not be discussed in the case staffing, but shared later, individually, with those who have the right to know the protected information.
 2. When natural parents of a child in custody are part of a case staffing or review, protected information from third party providers, such as mental health assessments pertaining to them, shall not be discussed in the meeting.

D. Committees and Community Meetings

1. When attending community meetings such as local coordinating councils or advisory councils, identifying information regarding DCFS/FCCRB clients shall not be shared.
 2. When participating in committees that do regular case staffing, such as Local Interagency Councils, FCCRB staff shall contact DCFS to assure that all appropriate releases have been obtained prior to releasing private client information.
5. Records containing personal identifiers and information regarding communicable disease are confidential. Such information shall not be disclosed to any person (including DHS personnel) who does not have a valid and objective need to know. Such persons who may have a valid and objective need to know may include: the DCFS administrators, program specialists, supervisor and caseworker, the foster parent or provider, DOH, the guardian ad litem, the juvenile court judge, and persons providing psychological or medical treatment.

F. Requests for Information from the Media:

1. FCCRB staff may not discuss a case or divulge any information to the media or public concerning a client currently served, or served previously, by the FCCRB.
 2. If contacted by the media regarding an emergency situation with a client, staff shall state that they have "no comment" and refer questions to the DHS Public Relations Officer.
 3. If contacted by the media regarding an emergency situation with a client, FCCRB staff and volunteers shall make no comment to the press and refer questions to the DHS Public Relations Officer.
 4. All requests of the media for interviews, pictures or release of information specifically regarding a child in DCFS custody shall be cleared through the FCCRB Director. Written consent must also be obtained by the client, or client's parent, if a minor. If the child is in the custody and guardianship of DCFS, then DCFS, as the legal guardian, shall sign a release even if the parents have already done so, before information may be released.
5. Staff and Volunteer Responsibilities to Maintain Confidentiality with Regard to Children in DCFS Custody
- A. FCCRB Staff and Volunteers who serve DCFS clients in the review process have access to DCFS records containing "private," "controlled" and "protected" information of clients for whom they are directly providing services. These individuals are exempt from the need for client releases prior to receiving case information.
2. FCCRB staff and volunteers shall comply with all FCCRB confidentiality requirements, as well as DCFS confidentiality requirements, which include GRAMA, other State statutes, DHS Provider Code of Conduct, Office of Licensure Regulations, specific DCFS program policies, and provider contracts or agreements. Violation of confidentiality may result in suspension or dismissal from staff or volunteer status.

3. Reviews:

1. The documents received by the FCCRB from DCFS caseworkers shall be handled by staff and volunteers according to the Government Records Access and Management Act (GRAMA). The documents usually received from DCFS are classified as follows:
 1. Service Plan: Private
 2. Progress Summary: Private
 3. Social Summary: Private
 4. Court Reports: Private
 5. Court Orders: Private
 6. Previous Review Report: Private
 7. Placement History: Private
 8. Custody History: Private
 9. Worker History: Private
 10. Psychological/Psychiatric Evaluations: Controlled
 11. CHEC Physical: Controlled
 12. CHEC Dental: Controlled
 13. Reports from other Agencies: Controlled
 14. CPS Case Transfer Summary: Exempt
2. The information contained in these records is confidential and shall only be used to facilitate the review process.
3. All written or oral information received during a review is confidential and shall only be used in the review process, as described below.
4. The review process includes the following steps:
 1. the identification of cases to be reviewed,
 2. the scheduling of reviews,
 3. the notification of caseworkers,
 4. the receipt of necessary documents,
 5. the notification of interested parties,
 6. the preparation of the case summary,
 7. the distribution of case documentation to volunteer board members,
 8. volunteer preparation for the review,
 9. the review itself,
 10. the finalization and distribution of the Dispositional Report,
 11. the response to any questions or concerns raised in the Dispositional Report, and
 12. any appearance in court necessitated by a subpoena of staff and or volunteers.
5. Any notes taken by board members during a review must be given to the Board Coordinator to be disposed of appropriately or placed in the review board file.

- C. Staff and volunteers shall keep confidential all information shared during reviews, in the treatment team, DCFS case record, or otherwise obtained, except information to be shared with medical providers, therapists and other professionals providing services to the client.
4. When sharing client information in case staffing, pertinent client identifying information shall only be shared with allied agencies that have mutual responsibility for the care and treatment of the client. Protected information that should only be shared with limited individuals shall not be discussed in the case staffing, but shared later, individually, with those who have the right to know the protected information.
 5. When natural parents of a child in custody are part of a case staffing, protected information from third party providers, such as mental health assessments pertaining to them, shall not be discussed in the meeting.
 6. FCCRB volunteers shall sign the Confidentiality Form at the beginning of each review day agreeing to comply with its requirements.
 7. Requests for Information from the Media:
 1. FCCRB staff and volunteers may not discuss a case or divulge any information regarding confidential treatment information to the media or public concerning a client currently or previously served.
 2. All media requests for interviews, pictures or release of information specifically regarding a child in DCFS custody shall be cleared through the FCCRB Director and the DCFS regional director. Written consent must also be obtained by the client, or client's parent, if a minor. If the child is in the custody and guardianship of DCFS, then DCFS, as the legal guardian, shall sign a release even if the parents have already done so, before information may be released.
 3. If contacted by the media regarding an emergency situation, FCCRB staff and volunteers shall share no information which would violate client confidentiality and refer the case to the FCCRB Director and DHS Public Relations Officer.
 8. Sharing of Information in Meetings, With Family Members and Other Foster Parents:
 1. When attending community meetings such as Local Coordinating Councils, or other public meeting, identifying information regarding DCFS clients shall not be shared.
 2. When attending committees that do regular case staffing, such as Local Interagency Councils, providers/volunteers shall assure that all appropriate releases have been signed prior to releasing DCFS client information.
 3. When meeting with other foster parents/providers for training or any other purpose, identifying information regarding DCFS clients shall not be shared.

4. Foster parents shall only share "private" client information with immediate and extended family members as is needed to accommodate special needs of the child and provide a supportive environment. "Protected" information shall not be shared with family members.

**Oath of Confidentiality
for Participants at
Foster Care Citizen Reviews**

Review Board_____ **Review Date** _____

I solemnly swear/affirm that I shall protect the confidentiality of all information disclosed during this review and any information related to the case I may learn outside the review process. I understand that such information may only be disclosed when authorized by law, and that by breaching this oath of confidentiality I may be subject to administrative or legal action.

The Foster Care Citizen Review Board gathers information for decision making from a variety of sources, such as: written material from the case file; verbal and written reports from all interested parties; and, observation.